R9372-2

Refugee Reports

A News Service of the U.S. Committee for Refugees
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Volume XII, Number 2 **February 28, 1991**

ADMINISTRATION SUBMITS REFUGEE BUDGET REQUESTS FOR FY 1992

[Editor's Note: In this, the first of a two-part article on the FY 92 refugee budget, we focus on the State Department budget for refugee admissions and overseas assistance. We will cover domestic resettlement budget issues in the April issue, by which time the Administration is expected to release more details on its request for $410.6 million for the Office of Refugee Resettlement.]

The Bush Administration has submitted an FY 92 budget request for more than $921 million for refugee admissions, resettlement, and overseas assistance. The proposal includes a $21 million increase for overseas assistance and a $12 million decrease in the admissions budget, while maintaining funded refugee admissions at the FY 91 level.

An estimated 120,000 refugees and Amerasian special immigrants would be admitted with federal funding in the coming fiscal year, nearly 100,000 of whom are likely to come directly from their countries of origin, according to the State Department.

Unlike previous years, the Administration request for FY 92 admissions funds provided no estimates of regional ceilings, although it did say that Soviet admissions would be roughly the same as the FY 91 level of 50,000. Southeast Asian admissions are also likely to be around the FY 91 level of 52,000, State Department officials told Refugee Reports, of which as many as 47,000 could be Vietnamese admissions via the Orderly Departure Program.

Overall resettlement priorities will continue to focus on family reunification, according to the State Department, as well as persecuted religious minorities and former political prisoners.

The Bureau for Refugee Programs (BRP) in the State Department has requested a total of $490.5 million for Migration and Refugee Assistance (MRA), including $192.3 million for refugee admissions and $233.4 million to provide relief assistance to refugees overseas.

The FY 92 MRA budget request for overseas assistance is $21 million more than the current level. Most of this

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increase would go to assist refugees and displaced persons in Africa and Asia. The budget for refugee assistance programs in Central America would be cut by more than half.

The MRA budget request also seeks $40 million to help resettle Soviet Jews in Israel, $14.5 million for international organizations, and $10.2 million for administrative expenses. In addition to the MRA funding request, the State Department is seeking $20 million for the Emergency Refugee and Migration Assistance (ERMA) fund.

Resettlement Will Be Mainly Direct Departure Instead of providing regional estimates for next year's admissions, the State Department said that specific regional ceilings for FY 92 would be set by President Bush after consultations with the Congress, which are scheduled for June this year, rather than the customary date of September.

In a report to Congress, BRP said that, "For budget purposes, we are assuming regional allocations similar to those in FY 1991." Out of a worldwide refugee admissions ceiling of 121,000 for FY 91, the State Department allocated 52,000 resettlement numbers for East Asia; 50,000 for the Soviet Union; 6,000 for the Near East/South Asia; 5,000 for Eastern Europe; 4,900 for Africa; and 3,100 for Latin America.

With processing of all Soviet refugee applications now taking place in Moscow, and the bulk of East Asian admissions likely to be Vietnamese exiting their country via the Orderly Departure Program (ODP), the State Department estimated that nearly 100,000 of the refugees and Amerasians admitted in FY 92 will be direct departures. That estimate also factors in approximately 3,000 Cuban political prisoners and family members expected to be admitted directly from Cuba.

The Refugee Act of 1980 gave the U.S. government the option to admit as refugees both those who have fled their country due to a well-founded fear of persecution as well as those who are still inside their country. The UN definition of refugee includes only those outside their country.

"My gut reaction is that we don't have a refugee program anymore," said Susan Forbes-Martin, senior associate with the Refugee Policy Group in Washington, D.C. "The provision in the Refugee Act of 1980 was aimed at rescuing individuals who were in imminent danger inside their country. In my view, it was not intended for large groups."

"On the other hand, if the purpose of the admissions program is to save lives," Forbes-Martin told Refugee Reports, "then it doesn't matter where people are. It's not whether they have crossed a border, it's why they need to move that makes them of concern. We should have more numbers to offer the people in refugee camps who have little alternative to long-term confinement while continuing to respond to those inside their country who are of humanitarian concern."

"I think the public expects a mix of programs and a mix of people in admissions," said Dawn Calabia, associate director for refugees for Migration and Refugee Services/U.S. Catholic Conference. "I would like to see more Chinese and Burmese dissidents resettled, for example, and more political prisoners from around the world. But, right now, it is unrealistic to ask people who fear persecution to stay in Vietnam and the Soviet Union."

Judy Golub, legislative director for the American Jewish Committee, told Refugee Reports that "the Refugee Act of 1980 anticipated that there would be changes in the sources of refugee flows and provided the flexibility to respond. We are strong supporters of overseas assistance and of resettlement from first-asylum countries. We have helped work to raise the admissions levels in Africa to 4,900 this year. We also feel that the direct departure admissions of people with a fear of persecution accords with the laws and the goals of the U.S. refugee program."

Africa Region Due for Largest Budget Increase for Assistance Citing "continued civil strife in the Horn, southern, and West Africa," the State Department requested $87.1 million in FY 92 to assist an estimated 4 million refugees and displaced persons in Africa. In FY 91, the Bureau for Refugee Programs expects to give an estimated $75.2 million to the UN High Commissioner for Refugees (UNHCR), the International Committee of the Red Cross (ICRC), and private relief groups for aid and protection to African refugees.

In the Horn of Africa, hundreds of thou-

MIGRATION AND REFUGEE ASSISTANCE
FY 199
SUMMARY BY PROGRAM
(dollars in thousands)

REFUGEE ASSISTANCE	1990 Enacted*	1991 Estimate	1992 Request	Inc./Dec.(-)
East Asia	$23,815	$39,000	$49,900	$10,900
Africa	54,981	75,200	87,100	11,900
Near East/South Asia	71,900	88,300	92,400	4,100
Western Hemisphere	8,000	9,830	4,000	-5,830
Resettlement Assistance				
Ethnic Turks/Bulgaria	9,957	--	--	--
Sub-total	168,653	212,330	233,400	21,070
REFUGEE ADMISSIONS	246,885	205,220	192,330	-12,890
Transfer to HHS	-14,936	--	--	--
No-year Supplemental Carryover	-21,273	--	--	--
Sub-total	210,676	205,220	192,330	-12,890
OTHER ACTIVITIES				
Refugees to Israel	29,893	45,000	40,000	-5,000
Other International Organizations	11,036	14,570	14,533	-37
Sub-total	40,929	59,570	54,533	-5,037
ADMINISTRATIVE EXPENSES	8,215	8,528	10,294	1,766
APPROPRIATION TOTAL	428,473	485,648	490,557	4,909

*/ *Program level reflects use of FY 1990 $75,000,000 supplemental appropriation.*

EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND
FY 1992
SUMMARY STATEMENT
(dollars in thousands)

1990 Actual	1991 Enacted	1992 Request	Inc./Dec. (-)
$84,785	$35,000	$20,000	-$15,000

sands of Somalis were internally displaced and tens of thousands more fled into neighboring countries as civil war in Somalia reached a climax at the turn of the year and President Siad Barre was ousted from power. Widespread drought has put an estimated 11 million people at risk of famine in the Sudan. This number includes Ethiopian refugees and southern Sudanese displaced inside their country by both drought and civil war.

In West Africa, political and ethnic violence in Liberia that began in December 1989 and continued throughout 1990 has spurred the exodus of more than 760,000 Liberian refugees.

And in southern Africa, the flight of Mozambicans into Malawi continued at a rate of 6,000 per month, while the repatriation of Angolan refugees from Zaire was stalled by intensified fighting in Angola.

The State Department said its FY 92 budget request was based on an assumption that although the composition of the groups is likely to change, "The overall African refugee population in need of assistance is expected to remain at roughly the 1990 level of about 4 million refugees (of the estimated 5 million African refugees) while protection will be needed for all refugees. In addition, African conflict victims in need of assistance are expected to continue to number some one to two million."

"Those estimates are already proving too low," said Roger Winter, director of the U.S. Committee for Refugees. "Since the budget was prepared, the conflict in Somalia has added hundreds of thousands of new refugees to the rolls. Existing refugee emergencies in Africa have grown worse, and new, large-scale emergencies have developed. This has seriously overtaxed the financial and logistical capacities of the international aid response."

East Asian Assistance Also to Increase Assistance for refugees and displaced persons in Southeast Asia would increase from $39 million in the current fiscal year to $49.9 million in FY 92 in the Administration's request.

State Department officials justified the increase in part by pointing out that in previous years, some of the U.S. contributions to the regional Comprehensive Plan of Action (CPA) for Vietnamese asylum seekers have come out of the ERMA fund, including a $10 million drawdown in FY 90. The BRP has included all anticipated U.S. contributions to the CPA in FY 92 within the MRA account.

The budget figure for East Asia also includes assistance for the estimated 320,000 Cambodian displaced persons on the Thai-Cambodian border. A total of $12.5 million would go to the UN Border Relief Operation (UNBRO) to provide shelter, water, food, medical care, education, and security to Cambodians in the border camps.

Additional sums would be given to UNHCR, not only to assist the 15,000 Cambodians in Khao I Dang camp, but to provide "start-up costs" for repatriation of most or all of the border population should that become feasible in 1992.

Also part of the MRA budget request is $2 million for ICRC and $1.5 million for anti-piracy and rescue-at-sea programs.

Near East/South Asia Has Most Refugees, Largest Assistance Budget Counting the 6 million Afghan refugees still in Pakistan and Iran, and the 2.4 million Palestinians under the mandate of the United Nations Relief and Works Agency (UNRWA) in the Occupied Territories, Jordan, Syria, and Lebanon, the Near East/South Asia region accounts for more than half of the world's 16 million refugees.

The MRA assistance budget for the region is also the largest regional allocation in FY 91--$88.3 million--and the State Department has requested an increase to $92.4 million in FY 92. This request "does not specifically address emergency needs in the Persian Gulf," the BRP budget report said.

A portion of the $19.4 million budgeted for UNHCR will assist in the repatriation of Afghan refugees, which began on a small scale in 1990 and is expected to continue but not necessarily expand. "The UNHCR will be increasingly involved in protection and integration activities in Aghanistan," the BRP said. "However, a sizeable residual refugee population in Pakistan will continue to require food aid, medical care, preventive health care, and education."

The bulk of the FY 92 request--$63.5

million--would go to UNRWA, which provides education, vocational training, relief services, and medical assistance to 2.4 million registered Palestinian refugees. The U.S. government has been a major contributor to UNRWA since it began operations in 1950.

The FY 92 assistance budget for the Near East/South Asia also includes $8 million for ICRC emergency medical assistance and tracing services, primarily in Afghanistan and the Middle East.

Included in the total is $500,000 for ICRC activities in Sri Lanka, which has been the scene of especially fierce fighting between the Sri Lankan government and Tamil minority separatists. Since June 1990, more than 5,000 people have been killed, more than one million internally displaced, and about 125,000 Tamils have fled across the Palk Strait to India.

Aid to Refugees in Latin America Would Drop The Administration has partially offset requested increases in the regional assistance budgets for East Asia, Africa, and the Near East/South Asia by proposing to cut the refugee aid budget for the Western Hemisphere from $9.8 million to $4 million. The lower level of funding, according to the BRP budget report, "reflects expectations of a much improved situation in Central America and the completion of the voluntary repatriation of the great majority of refugees throughout the region."

Of the 135,000 Central American refugees who have been assisted by UNHCR in FY 91, BRP expected all but about 40,000 Guatemalan refugees in Mexico to have returned home by next year. Most of the estimated 55,000 Nicaraguan refugees in Honduras, Costa Rica, and Guatemala are likely to return home in the next six to eighteen months, according to the BRP report. "At the same time, the remaining 2,500 Salvadoran refugees in Honduras were expressing their intent to return to El Salvador by year's end."

"There are many encouraging signs in the region," Sergio Aguayo, professor of international studies at El Colegio de Mexico, told Refugee Reports, "but the U.S. assessment ignores the estimated 400,000 Central Americans displaced in Mexico who are getting practically no assistance from anybody."

Salvadorans comprise the largest number of Central American displaced persons in Mexico, Aguayo said, followed by Guatemalans, Nicaraguans, and Hondurans.

Outside of Central America, UNHCR provides protection and assistance to only about 6,000 refugees, but "internal problems in Peru (guerrilla insurrection) and Colombia (drug-related violence) could lead to refugee outflows from those countries," the BRP report said.

The State Department has proposed giving half of the requested $4 million to UNHCR with the other half going to the International Committee of the Red Cross (ICRC) for emergency medical assistance and tracing services.

State Department Proposes $40 Million to Resettle Soviet Jews in Israel A total of 184,493 Soviet Jews migrated to Israel in 1990, a number that could be doubled in 1991. Included in the MRA budget request for FY 92 is $40 million to help finance the programs of the Jewish Agency for Israel to assist Jews from the Soviet Union, Eastern Europe, and other regions to resettle in Israel.

In the FY 91 appropriations bill, Congress earmarked $45 million for Jewish refugees in Israel. "The U.S. grant has historically represented a small percentage of overall costs of resettling refugees in Israel," said the BRP report, "and the dollar amount in any given year is not directly linked to the number of new arrivals."

ERMA Would Get $20 Million The State Department asked for $20 million in FY 92 for the Emergency Refugee Migration Assistance fund, which the President can draw upon to meet "unexpected urgent refugee and migration needs." The ERMA fund is permanently authorized to carry up to $50 million, although in 1990, ERMA held as much as $84 million at one point.

In FY 90, the Administration drew down more than $60 million, while Congress appropriated an additional $35 million, leaving the fund with a total of $59 million going into FY 91.

In January, the President authorized an ERMA drawdown of $12.1 million, of which $6 million was used to assist Liberian refugees; $2.5 million was given to UNHCR for Sudanese refugees; $600,000 was contributed to assist

Chadian, Rwandan, and Burundi refugees; and $3 million went to the Office of the United Nations Disaster Relief Coordinator (UNDRO) to help evacuees from the Persian Gulf.

Recent Developments

TEMPORARY PROETECTED STATUS APROVED FOR LIBERIANS, LEBANESE, AND KUWAITIS

Attorney General Dick Thornburgh announced on February 22 that temporary protected status (TPS) would be designated for Liberians, Kuwaitis, and Lebanese currently in the United States. Each nationality group will be protected from deportation for a period of one year from the date the notice is published in the Federal Register.

"This will ensure that persons from those countries will not be forced to return to their homelands while present dangers exist," said Thornburgh.

The Immigration Act of 1990 authorizes the Attorney General to grant TPS to aliens in the United States who are nationals of countries that are subject to armed conflict, natural disaster, or other extraordinary circumstances. Congress had mandated TPS for Salvadorans in the statute (see next story), and had recommended TPS for Liberians, Kuwaitis, and Lebanese in the conference report accompanying the legislation.

The Immigration and Naturalization Service estimates that some 51,000 persons could benefit from the TPS designation, representing 27,000 Lebanese, 14,000 Liberians, and 10,000 Kuwaitis.

Nongovernmental reaction to the Attorney General's announcement was positive. Albert Mokhiber of the American Arab Anti-Discrimination Committee (ADC) said, "We are very pleased that the Attorney General made this decision. It will have a major impact on nationals of Kuwait and Lebanon."

Mokhiber said that the ADC would like to see the designation for Kuwait and Lebanon include "residents", not just nationals of those countries, since both countries have large, vulnerable Palestinian populations, who are legally stateless. "Many were born in Kuwait and have no ties to any other country. They have now been refugees several times over."

Mokhiber said that many of the Palestinians in Kuwait offered safe haven to American residents there after the Iraqi invasion.

INS sources indicate that the delay in publication of the TPS notice in the Federal Register following the Attorney General's announcement is due to discussions about including long-time residents of Kuwait in the designation.

Outreach Activities Planned for Liberians

Nongovernmental agencies working with Liberians are already gearing up for outreach efforts to the Liberian community, including plans to produce a videotape, possibly in cooperation with the INS Outreach program.

Binafre Nowrojee, staff attorney with the Lawyers Committee for Human Rights, noted that "in-reach" is also needed. "The Immigration Service needs to tell their own people how TPS should work." Nowrejee said that prior to the TPS designation, Liberians had been protected by EVD--extended voluntary departure. "Many within the INS had been unaware that Liberians had EVD, or gave conflicting information to Liberians" about it.

"The general feeling is great," said Dr. Jane Martin of the African-American Institute, which sponsors "Liberia Watch." Martin also noted the problems Liberians had encountered with EVD, saying that EVD status had only lasted for six months, and that work authorization was often delayed.

"We want to work with the INS to make the TPS program efficient," said Nowrojee.

Outreach is likely to be eased for Liberians, Kuwaitis, and Lebanese because of the low fees for TPS registration. Unlike the TPS fees for Salvadorans, which the law says should be "reasonable," TPS registration for other nationalities is capped at $50 by statute.

The registration procedure for these three nationalities is anticipated to be one-step with automatic work authorization. They will have six months to register.

SALVADORAN TPS REGISTRATION SLOW; APPLICATION FEES COULD BE LOWERED; BUT WORK AUTHORIZATION FEES NEARLY DOUBLE

The number of Salvadorans registering for temporary protected status (TPS) in the first month and half of the program have been less than expected. A total of 18,329 registered, as of February 15. The Immigration and Naturalization Service (INS) initially anticipated that as many as 350,000 would apply during the six-month registration period. Now, the INS is revising estimates down to about 150,000.

Community groups and nonprofit agencies have been highly critical of the fees required for TPS registration, arguing that this is one of the principal reasons for the low turnout (see Refugee Reports, Vol. XII, No. 1). Following the publication of interim regulations in the Federal Register, the INS received more than 1,000 comments from nongovernmental groups and individuals, which were overwhelmingly critical of the fee requirements. Adding fuel to the fire, the INS proposed a series of user fee increases in the January 29 Federal Register, which would raise the cost of a work permit from $35 to $60.

In response to these developments, the INS is in the process of proposing two changes in the TPS fee structure: first, a family cap of three members per family; second, dropping the re-registration fee for each six month period of TPS (although the increased work permit fee would have to be paid every six months).

The effect of these changes, if they come into effect, would offset to a great extent the increase in work permit fees, especially for family groups. Under the present fee system, a family of four adults pays a total of $1,520 for TPS and work authorization, and a family of two adults and two children pays $1,210. Under the proposal, which is still circulating within the Administration, a family of four adults would only pay $845 and the family of two adults and two children would pay $535.

This INS proposal cannot come into effect until it is approved by the Justice Department, the Office of Management and Budget (OMB), and published in the Federal Register. Since the TPS registration period is statutorily required to end on June 30, the federal bureaucracy will have to work quickly if the proposed lowering of fees is to have any effect on Salvadoran registration.

INS sources suggested that there are limits to how quickly the change can be approved. "We couldn't make it any faster than how we are now proceeding," said one source.

Although INS district directors have discretion to waive the fees for indigent registrants, no TPS application fees had been waived in the northern, southern, or western INS regions, as of February 8. Only seven persons have had their fees waived out of a total of 8,138 applications in the eastern region, the only region where TPS fees have been waived.

Ease of Processing Affects Numbers Registering The number of Salvadoran applicants for TPS appears to bear less relationship to the undocumented population in a given INS district than to the mode of registration. Los Angeles, which is believed to have the nation's largest population of Salvadorans, has trailed behind Baltimore and Arlington, Virginia in the number of applicants.

TPS REGISTRATION BY INS REGION
as of February 15, 1991

Eastern	Northern	Southern	Western
9,847	651	4,420	3,361

Baltimore has had one-step processing since the inception of the program, which seems to account in large part for its surprising standing as the number one city in the nation for Salvadoran TPS registration. When the Arlington INS office switched from scheduling interviews there to a one-step process at a community center in Washington, D.C., the number of applicants rose dramatically.

Los Angeles, on the other hand, has a system involving mailing of paperwork and scheduling of interviews, which agencies call "off-site, mail-in." And the response from the Salvadoran community has been very slow.

"The statistics speak for themselves," said Guillermo Rodezno, executive director of El Rescate "We have the largest Salvadoran population, but other cities have more people coming forward."

Salvadorans register for Temporary Protected Status (TPS). At Washington's Indochinese Community Center, the INS registered 250 Salvadorans per day for TPS during starting early February. Refugee Reports surveyed a group of 25 Salvadorans who had appointments during the first hour of registration on February 26th. All who responded expressed awareness that TPS was a temporary program, but their thoughts on what might happen after the 18 months differed considerably. One woman assumed that TPS was renewable after 18-months. Many said that one way or another they thought there would be some legal way they would be allowed to remain in the United States after the initial 18 months, but some acknowledged that deportation could eventually be a possibility. The group saw registration as something of a gamble, but given the benefit of immediate work authorization and at least temporary protection, they also saw it as a risk worth taking. Most thought that a majority of eligible Salvadorans they knew would register. Those least likely to register, they said, were those who had found secure work even without work authorization.

Photo Credit: USCR/Hiram A. Ruiz

Rodezno said that the Los Angeles agencies now have enough experience with TPS processing to say that a change is needed. But what? Because the city is so large and spread out and because public transportation is inadequate, local agencies hesitate to endorse a complete switch to one-step, on-site processing. "The INS processing center is 45 minutes to an hour away from Los Angeles," said Madeline Janis, executive director of CARECEN, the Central American Refugee Center.

Currently, the local agencies prepare the paperwork, and the INS has been willing to come out to their offices to conduct interviews. But this results in delays of two weeks to a month before the registrants actually receive a work permit.

"In the best of all possible worlds, we would have one-step processing in a local community center or INS legalization office located in the heart of the Salvadoran community," said Janis. Although noting that such a switch "would make a difference," Janis said that there are several other reasons for the low turnout in Los Angeles. "Fear is a big factor," she said, which she attributes in part to the aggressive criticism by her own and other local agencies of the TPS program prior to the settlement of the American Baptist Church (ABC) suit in December, which provides a chance for rehearing of asylum claims. "The fear of deportation after 18 months is "tough to overcome," she said.

Janis said that more than 50,000 Salvadorans in Los Angeles already have work permits because they have asylum claims pending. "They don't understand the effect of ABC," she said. She also guessed that those with work permits who are aware of the ABC/TPS program will wait until June to register "so they don't have to pay [for TPS registration and a work permit] three times." Janis faulted the local INS district for having "done essentially nothing" on outreach to the community.

Frank Sharry, executive director of the National Immigration, Refugee, and Citizenship Forum, which has been coordinating TPS implementation nationwide, observed that "the best

outreach possible is for the applicant to walk out after registering with a shiny new work permit."

NEAR EAST/SOUTH ASIA REFUGEE PROCESSING DISRUPTED BY GULF WAR

Security concerns stemming from the Gulf War that have caused the temporary suspension of refugee processing out of the Sudan and of Kurds out of Turkey (see Refugee Reports, Vol. XII, no. 1) have also resulted in the removal of Joint Voluntary Agency personnel from Islamabad, but not in the cessation of activities there. A backlog representing more than four-months worth of processing of refugees who had been interviewed and accepted has continued to be moved in the absence of new interviews. Also, local staff have continued to accept applications in Islamabad. "Only the middle step is missing," said one source.

The first quarter processing statistics for Near East/South Asia show a total of 1,323 arrivals--548 Afghans, 650 Iranians, and 125 Iraqis. Although most Afghans were processed through Islamabad, nearly all of the Iranian cases came through Vienna and Frankfurt, and the Iraqi cases through Rome and Athens.

The new program that was to begin processing Iraqi Kurds out of Turkey was called off on the very day that an International Catholic Migration Commission team was to have begun interviewing the first group of 1,800 people to be processed. After traveling overland the length of Turkey for about 29 hours, they had to turn around and evacuate the country.

Informed sources indicate that the State Department will review JVA operations in areas of suspended operation in mid-March.

SUPREME COURT ALLOWS JUDICIAL REVIEW OF IRCA LEGALIZATION DENIALS

The U.S. Supreme Court ruled on February 20 that federal courts have the right to hear class action suits challenging large-scale violations of the rights of undocumented farm workers applying for legalization under the special agricultural worker (SAW) provisions of the 1986 Immigration Reform and Control Act (IRCA). The Immigration and Naturalization Service (INS) argued unsuccessfully that IRCA had restricted judicial review to that of individual applicants about to be deported.

Writing for the majority in the 7-2 decision, Justice John Paul Stevens said that because there is no provision for direct judicial review of SAW denials, review could only come if the alien surrendered himself for deportation. "Quite obviously," Stevens wrote, "that price is tantamount to a complete denial of judicial review for most undocumented aliens." Stevens also noted that the "pattern and practice" of alleged INS unconstitutional practices would not have been found relevant in challenging an individual application.

The decision, McNary v. Haitian Refugee Center, directly affects about 40,000 farm workers who claimed that their denials had been due to violations of their due process rights. Stevens noted that by the time the case appeared before the Supreme Court, there was no dispute "that the INS routinely and persistently violated the Constitution and statutes in processing SAW applications."

John J. Curtin Jr., president of the American Bar Association, called the ruling "one of the most important immigration decisions in the last quarter century."

The decision is likely to affect other suits, including Ayuda v. Thornburgh, which maintains that the INS interpreted too narrowly the IRCA requirement that the amnesty applicant's unauthorized presence be "known to the government." On February 25, the Supreme Court remanded the case to the D.C. circuit court of appeals for a ruling consistent with McNary.

UPDATE

° Senator Edward Kennedy (D-Mass.) and Rep. Merwyn Dymally (D-Calif.) have proposed bills in the Senate and House of Representatives that would provide emergency relief for Liberia and Liberian refugees. The Liberia Relief, Rehabilitation, and Reconstruction Act of 1991 (S.413; H.R.994) would provide sufficient funds to purchase and transport ad-

equate levels of food; provide health care; rehabilitate the water supply; repatriate refugees when that is possible; and provide seeds and agricultural tools.

° Several high-ranking officials of the Immigration and Naturalization Service have recently left the agency, including Ben Davidian, the head of the Western Region as well as the associate commissioner for management, the associate commissioner for information systems, and the comptroller. Other demotions and shifts are reportedly taking place, including removing from the decision-making hierarchy, William A. Skaggs, the chief of staff for INS Commissioner Gene McNary.

The agency shake-up is attributed, in part, to the February 1 report of the Carlson panel, appointed by Attorney General Dick Thornburgh to analyze management problems at the INS. Following a highly critical General Accounting Office report of INS management, Thornburgh asked Norman Carlson, the former director of the federal Bureau of Prisons, to head the group making the assessment.

Davidian was quoted by the February 14 Los Angeles Times as saying, "I think whenever you have an attempt to change in a major way the way things are done in an organization, then people do get concerned about that, and I suppose a bit of frustration is in there."

° On February 18, a Hong Kong judge ordered a new hearing for a Vietnamese asylum seeker whose application for refugee status had been rejected due to an error made by a local immigration officer, according to a report in the New York Times. Justice Barry Mortimer of the High Court, who ruled on the case, recommended that the Hong Kong government review the refugee applications of all screened-out Vietnamese to check for accuracy.

The immigration officer who interviewed 24-year-old Do Giao had written incorrectly in his report that the applicant had worked for a time in a state-run factory. Do's claim to a well-founded fear of persecution hinged on his assertion that he had been denied identity papers because of his family's anti-communist past and had been forced to lead an underground life.

Justice Mortimer recommended that Vietnamese asylum seekers should be allowed to read the immigration officers' reports to check for any inaccuracies.

Lawyers for Do Giao and the Hong Kong government both claimed a victory in the case. "I welcome this decision as laying down some very important guidelines that ought to be followed, and in establishing law governing judicial review of administrative decisions," said Daniel Fung, the defense lawyer for Mr. Do.

But the refugee coordinator for the Hong Kong government, Clinton Leeks, saw it otherwise. "The case tried to cover an enormously wide area--it was brought as an attack on a whole range of screening procedures," Leeks told the New York Times, "and in reviewing that wide area the judge has come down to a problem with one specific point. Far from declaring our screening procedures in disarray, this decision vindicates our procedures."

"The decision was technical and narrow, legally speaking, but politically it will have enormous consequences," countered Arthur Helton, director of the Refugee Project for the Lawyers Committee for Human Rights. "This was the very first judicial challenge to the screening process, and a Hong Kong judge found the screening decision flawed. I think that fact will figure prominently in any future discussions among the United States, the United Nations, Hong Kong and Britain over the fairness of the process."

Current Research

PILOT PROGRAM RELEASES DETAINED ASYLUM SEEKERS

Starting in May 1990, the Immigration and Naturalization Service (INS) embarked on an experimental project to release 200 excludable asylum seekers to determine, in the words of INS Commissioner Gene McNary, "whether an expanded use of parole authority on behalf of excludable asylum seekers is feasible and desirable."

The pilot project was slated to last for 18

months. The Lawyers Committee for Human Rights has issued an interim report assessing the successes and problems in the first six months of the program. Under the terms of the program, asylum applicants who were represented by counsel were eligible for release if they could give sufficient assurances that they would not abscond during the course of immigration court proceedings. On this, the most important measure of the project's success (showing up for hearings at the immigration court), the Lawyers Committee found compliance rates of 100 percent in Los Angeles and San Francisco, California, representing 9 and 12 persons respectively, and 97 percent in New York, for the 54 persons who were released with community sponsors, out of a total of 127 who were paroled there. The fourth city, Miami, where 52 persons were released, was "more difficult to discern," according to the report, "due to the failures in implementation of the program, and lack of INS and community cooperation."

An INS source responded to the interim report by pointing out that compliance among those in New York who were not supported by voluntary agencies fell well short of the compliance rates cited by the Lawyers Committee for those who were supported by community groups.

Involvement of Community Groups "Crucial" In general, the report demonstrates the importance of active involvement by voluntary agencies for the success of the program. Organizations agreeing to act as "designated voluntary agencies" for parolees accepted the responsibility to assist them with counseling and employment services. "Regardless of the scope and available funding of the designated organizations," said the report, "two concerns which remain constant are the need for sharing and coordination of services provided and funding to alleviate the financial burden of assisting indigent asylum services." In New York, this problem was overcome, in part, through a grant from New York Community Trust to Catholic Charities.

While the success in New York shows the benefits of community involvement, the failures in Miami demonstrate the consequences of inadequate community support. "In Miami, the absence of legal groups and social service involvement, along with severe communication and implementation problems on the part of the INS, fostered a project characterized by disarray, uncertainty, and frustration," said the report. "The experience of the 52 aliens released in Miami demonstrates the crucial need for community involvement in helping to both coordinate and monitor the release of asylum seekers."

The Miami program demonstrated how poor communication between the INS and private agencies could doom it from the start. Although Haitians represented nearly two-thirds of asylum seekers detained in the Miami district, no Haitians were included in the parole program in its first month. The local INS district director told the Ft. Lauderdale Sun Sentinel at that time, "of the criteria for release, the most difficult for the Haitians to meet is that of a valid asylum claim." But, then, suddenly, as one local attorney put it, the pilot project became a "catch-all" for all detainees the INS wanted to release, including Haitians. The report quotes the local INS assistant district director for detention and deportation as saying he had been worried about not being able to "fill the 50 slots in Miami" before the openings ran out.

Several Miami lawyers said that detainees were paroled even when the attorney of record had not requested it. Other Miami attorneys were not sure whether their clients were included in the project or not. The local American Immigration Lawyers Association (AILA) attorney who agreed to monitor the program, Robert Boyer, observed, "I don't think anyone in Miami took this program seriously--no one on any side."

The Lawyers Committee report recommends that the pilot parole project should be terminated as a demonstration project and replaced with a new general INS policy for releasing excludable aliens. The report recommends that the INS Operations Instructions be revised to interpret the law about release "in the public interest" to include "asylum applicants who are represented by counsel, who can give reasonable assurances that they will not abscond, including demonstration of assistance and support by family, or community, church, or other voluntary groups."

The 42-page study, "Interim Report on the Pilot Parole Project of the Immigration and Naturalization Service," is available for $6 from the Lawyers Committee for Human Rights, 330 Seventh Avenue, 10th floor, New York, NY 10001.

U.S. REFUGEE AND ASYLUM PROGRAMS AND POLICIES: A 1990 CHRONOLOGY

The following is a chronology of U.S. program, policy, and legislative decisions affecting refugees and asylum seekers during 1990. The listing is taken from articles that appeared during the year in Refugee Reports.

January 9: As of this date, the Immigration and Naturalization Service (INS) reports that 1,768,300 persons had applied for legalization under the regular provisions of the Immigration Reform and Control Act (IRCA). Nearly 70 percent of the total were Mexican; 8 percent were Salvadoran; 3 percent Guatemalan; and no other nationality represented as much as 2 percent of the total. More than half of the applicants applied in the state of California.

February 7: INS Commissioner Gene McNary announces from the grounds of the Port Isabel Service Processing Center, a large INS detention facility in south Texas, stepped up efforts to detain and deport undocumented Central Americans. "The message we are now sending," he said, "is, 'Just don't drop in our doorstep without a just cause and provable case of fear of persecution.'"

March 17: The tenth anniversary of the Refugee Act of 1980 is marked by reports issued by both Amnesty International USA and the Lawyers Committee for Human Rights critical of the record of implementation of the Act in its first decade.

March 23: The directors of World Vision and the National Association of Evangelicals write to President Bush concerning about 6,000 Soviet Evangelical Christians stranded in the Soviet Union because they had applied for exit visas to Israel prior to a change in policy making direct departure from Moscow to the United States their only way to exit the country.

March 29: The U.S. General Accounting Office (GAO) releases a report saying that the employer sanctions provisions of IRCA had resulted in "a widespread pattern of discrimination."

April 11: President Bush issues an executive order barring the deportation of all Chinese nationals present in the United States between the time of the Tiananmen Square Massacre (June 5) and the signing of the order.

April 23: President Bush signs into law the Hate Crimes Statistics Act, which calls for the collection of data on crimes motivated by race, religion, ethnicity, or sexual orientation.

April 24: The U.S. government suspends registration of new Czech cases for the U.S. overseas refugee admissions program and announces that the only Czechs, Poles, or Hungarians (registration of the latter two nationalities for the refugee program having been suspended on November 22, 1989) eligible for admission to the United States as refugees would be those whose lives are in imminent danger.

May 1: INS Commissioner McNary announces a pilot program to parole up to 200 detained asylum seekers to test the feasibility and desirability of paroling excludable asylum seekers.

May 7: A State Department witness tells a Senate hearing on the FY 91 budget that the closing of the Rome-Vienna pipeline for Soviet refugee processing will result in savings of $40 million for the refugee program, which will be shifted to overseas assistance.

May 25: A $4.4 billion FY 90 supplemental budget is signed into law. It includes $70 million for the admission of 27,000 refugees, mostly from the Soviet Union; $25 million to replenish the Emergency Refugee and Migration Assistance (ERMA) fund; and $5 million for resettling Soviet and other refugees in Israel. Other provisions of the supplemental include a $6 million transfer of student financial aid funds into the Office of Refugee Resettlement's targeted assistance program; a $400 million housing loan for Soviet refugees in Israel;

$30 million for demobilization, repatriation, and resettlement of the Nicaraguan Contras; and up to $5 million in emergency assistance for children in Cambodia.

June 12: The INS stops detaining family groups of Central American asylum seekers at its shelter in Brownsville, Texas due to decreasing numbers of Central Americans with children seeking asylum.

June 26: The UN High Commissioner for Refugees, Thorvald Stoltenberg, meets with President Bush to persuade him to agree to the involuntary return of denied Vietnamese asylum seekers in Southeast Asia. The White House reiterates the U.S. position in support of first asylum in Southeast Asia and against involuntary repatriation due to current conditions in Vietnam.

July 2: The INS resumes sending out notices to Nicaraguan asylum applicants who had been denied asylum, a practice that had been suspended since 1987. About 200-300 denial notices are being sent out per week.

July 18: Secretary of State James Baker 3rd announces the withdrawal of U.S. recognition of the UN seat of the Coalition Government of Democratic Kampuchea, which includes the Khmer Rouge.

July 27: Final asylum regulations are published in the Federal Register after a 10-year wait. The regulations establish a corps of asylum officers within the INS with the exclusive task of adjudicating asylum claims and a documentation center to provide the INS adjudicators with information on human rights conditions.

July 27: The INS announces that it will "view sympathetically" requests to defer the enforced departure of Liberian nationals in the United States faced with deportation because of the situation in Liberia.

September 10: UNHCR Stoltenberg calls upon the U.S. government to end its policy of screening refugees seeking U.S. resettlement for the human immunodeficiency virus (HIV), the virus associated with AIDS.

October 12: President Bush authorizes the admission of up to 131,000 refugees in FY 91, including up to 52,000 from Southeast Asia and up to 50,000 from the Soviet Union.

October 30: President Bush declares this Refugee Day.

November 5: President Bush signs spending bills that appropriate $931 million for refugee relief and resettlement in FY 91, more than $87 million than the Administration had requested. Added to the spending bill was a provision extending until October 1, 1992 legislation originally passed in 1989--known as the Lautenberg Amendment--that requires the Attorney General to establish "category groups" from the Soviet Union, Laos, Cambodia, and Vietnam "who share common characteristics that identify them as targets of persecution," and lowers the threshold test of a well-founded fear for persecution for members of these category groups by making them eligible for admission as refugees "by asserting such a fear and asserting a credible basis for concern about the possibility of such persecution."

November 20: A Ninth Circuit Court of Appeals panel strikes down a government appeal of the Orantes-Hernandez suit, which holds that the INS coerces Salvadoran asylum claimants into dropping their asylum claims and returning to El Salvador.

November 30: President Bush signs the Immigration act of 1990, which reforms many aspects of immigration law. Refugee/asylum-related highlights of the law include revising the grounds for exclusion from the United States; establishing a temporary protected status (TPS) for nationals of countries experiencing ongoing armed conflicts and other dangerous conditions (and mandating TPS for Salvadorans for an 18-month period); permitting *in absentia* deportation orders for asylum seekers who fail to appear at their hearings; and doubling to 10,000 the number of asylees per year who can adjust to permanent resident status.

Resources

TPS/ABC MANUAL AVAILABLE

A manual directed to nonprofit agencies assisting and counseling Salvadorans has recently been produced by the Immigrant Legal Resource Center and the National Immigration Project of the National Lawyers Guild.

"Temporary Protected Status for Salvadorans and the ABC Case," by Dan Kesselbrenner and Mark Silverman, provides guidance on the law, interim regulations, and terms of settlement of the American Baptist Church (ABC) suit. In addition to explaining each point, the manual provides "practitioner's tips" and case examples.

Bound in a three-ring binder, the manual is divided into 13 chapters covering a range of topics, such as disqualifying grounds, TPS waivers, weighing risks and benefits, proceedings, and TPS group processing. An extensive 105-page collection of appendices is attached, which includes a glossary, the interim regulations, the ABC settlement, and various INS forms.

The manual, published in February 1991, is provided free of charge to voluntary agencies doing significant TPS processing work. The price for members of the National Lawyers Guild is $40; $50 for attorneys in private practice. To order, contact the National Immigration Project of the National Lawyers Guild, 14 Beacon St., Suite 506, Boston, MA 02108. (617) 227-9727.

SPANISH VIDEO EXPLAINS TPS/ABC

The National Immigrant, Refugee, and Citizenship Forum is making available free of charge to nonprofit agencies a 14-minute video in Spanish that provides an overview of Temporary Protected Status (TPS) for Salvadorans and the American Baptist Church (ABC) settlement.

The video features immigration experts and community leaders who discuss risks and benefits of registering. Eligibility for the program and other questions are addressed through a conversation showing two Salvadoran women en route to a community forum to learn more about their rights under TPS/ABC.

La Nueva Ley de Inmigración para Salvadoreños: El Estado de Protección Temporal (TPS) y Beneficios Logrado por el Acuerdo ABC, produced and directed by Heidi Hall, is available free of charge to nonprofit agencies and to private attorneys for $20. To obtain a copy, contact the Forum, 220 I St., NE, Suite 220, Washington, DC 20002. (202) 544-0004.

NEW QUARTERLY NEWSLETTER FOCUSES ON AFRICAN REFUGEES IN THE UNITED STATES

The first issue of African Refugee NETWORK, published by the Ethiopian Community Development Council (ECDC), came out in January 1991. The quarterly newsletter is part of ECDC's Africa Refugee Resource Development project, funded by the Office of Refugee Resettlement (ORR).

Issue No. 1 includes an overview of the Immigration Act of 1990, newsbriefs, facts and figures on African refugee admissions, a calendar of upcoming events, and a list of resources.

According to its publishers, African Refugee NETWORK seeks to provide a link between African refugees, African community-based organizations and MAAs, policymakers, service providers, and national and international agencies active in African refugee issues and resettlement.

For further information, contact African Refugee NETWORK, ECDC, 3213 Columbia Pike, Suite 101, Arlington, VA 22204. (703) 685-0510.

MUSKIE ISSUES REPORT ON CAMBODIA

Former U.S. Senator and Secretary of State Edmund S. Muskie has issued a report based in large part on his three week trip to Cambodia, Vietnam, and Thailand in October 1989 to "explore options for U.S. policy in relation to the changing military, economic, and diplomatic situation in the region."

Exploring Cambodia: Issues and Reality in a Time of Transition, published in October 1990 by the Center for National Policy, which Muskie chairs, calls "the central question for U.S.

policy...simply this: why should we insist on dismantling the existing government prior to elections, and thereby risk the return of chaos? Would it not be better for Cambodia to let the existing government administer this fragile nation, pending the selection of a new one, under international supervision?...

"We should reject the idea that Cambodia must be subjected to war until a comprehensive political settlement is achieved, and we should instead begin the journey toward peace with some feasible steps," Muskie writes.

Exploring Cambodia is available for $15.00 from the Center for National Policy, 317 Massachusetts Avenue, N.E., Washington D.C. 20002. (202) 546-9300.

OXFAM AMERICA OFFERS PHOTO EXHIBIT ON CAMBODIANS

Using photographs by freelance photographer Leah Melnick and bilingual text derived from oral histories and the work of Cambodian writers, Oxfam America has organized a travelling photo exhibit that examines life today inside Cambodia, in Thai border camps, and in the United States. "Distant Relations: Cambodians Inside and Outside the Homeland" contains 25 to 40 black and white photographs (11" by 14") with bilingual captions and text. The exhibit comes with instructions for installation, publicity, education, and outreach. Suggested sites include schools, libraries, neighborhood centers, conferences, museums, and galleries.

"Distant Relations" may be rented for single, month-long engagements. For more information, contact Distant Relations Photo Exhibit, Oxfam America, 115 Broadway, Boston, MA 02116. (617) 482-1211.

HUMAN RIGHTS IN SUDAN IS SUBJECT OF FIRST REPORT BY THE FUND FOR PEACE HORN OF AFRICA PROGRAM

Within weeks, international agencies estimate that thousands of Sudanese will begin to die from war and drought-induced famine. Eleven million are at risk, almost half of those in the war-torn southern Sudan, the source of hundreds of thousands of internally displaced people and refugees.

"Fundamentalism and Militarism: A Report on the Root Causes of Human Rights Violations in the Sudan," by Abdullahi A. An-Na'im and Peter N. Kok, is a monograph that provides the context for the continuing tragedy facing Sudan's civilians.

The report is the first of a series of papers produced by the Fund for Peace Horn of Africa Program. Copies are available for $3.00 from The Fund for Peace, Horn of Africa Program, 823 United Nations Plaza, New York, NY 10017. (212) 661-5900.

Job Board

[Several readers have commented that they appreciate having the new job board section in Refugee Reports. If you know of openings, please let us know at our office in Washington (address on back cover). If you wish, FAX the announcement to (202) 347-3418, attention Virginia Hamilton.]

Program Coordinator. To work with local and national refugee and immigrant service organizations to implement the Immigration Act of 1990.

Contact Frank Sharry, National Immigration, Refugee and Citizenship Forum, 220 I Street, NE, Suite 220, Washington, DC 20002. (202) 544-0004.

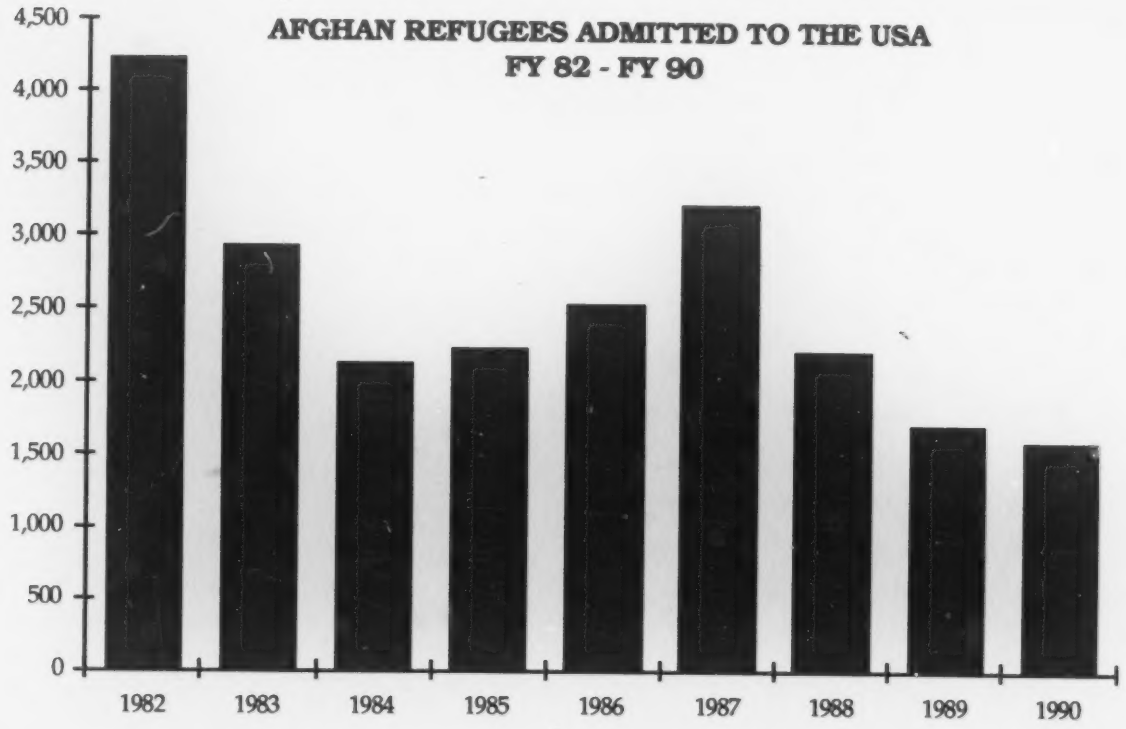
There are three positions available at El Rescate:

Development Associate. To assist the development director in researching funding sources, writing proposals, and developing organizational outreach materials.

Attorney. To maintain a caseload in deportation proceedings (mainly political asylum), community education (outreach regarding TPS/ABC), and coordinating pro-bono panel.

Paralegal. To be responsible for client intake and referral. Will also assist attorney in preparation and presentation of political asylum claims.

To apply, send resume to: Todd Howland, El Rescate Legal Services, Inc., 2675 W. Olympic Blvd., Los Angeles, CA 90006.



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Editorial comments and inquiries should be sent to : *Refugee Reports*, 1025 Vermont Avenue NW, Suite 920, Washington, DC 20005. All communications regarding subscriptions should be sent to: *Refugee Reports* Subscriptions, Sunbelt Fulfillment Services, P.O. Box 41094, Nashville, TN 37204. (615) 377-3322.

Basic subscription rate for 12 issues per year: $37.50; Multiple-copy rate: $25.00; Single copies of back issues: $4.00
Co-Editors: Bill Frelick and Virginia Hamilton; Staff Writers: Court Robinson and Hiram A. Ruiz
Distribution Manager: Carolyn Moore; Production Coordinator: Koula Papanicolas
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Refugee Reports

A News Service of the U.S. Committee for Refugees, a Project of the American Council for Nationalities Service
Sunbelt Fulfillment Services
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